

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF PUERTO RICO**

IN RE:	*	CASE NO. 00-00801(GAC)
	*	
WILFREDO DE JESUS RIVERA	*	CHAPTER 13
SONIA M HERNANDEZ MELENDEZ	*	
	*	ADV. PROC. NO. 04-00165
Debtors	*	
	*	

	*	
WILFREDO DE JESUS RIVERA	*	
SONIA M HERNANDEZ MELENDEZ	*	
	*	
Plaintiffs	*	
	*	
Vs.	*	
	*	
GE CAPITAL CORPORATION OF PR	*	
	*	
Defendant	*	
	*	
	*	
	*	

MOTION REQUESTING PRESUMPTION OF PROCEEDINGS

TO THE HONORABLE COURT:

COME NOW, the above-named plaintiffs through the undersigned attorney and very respectfully pray, allege, and request:

1. The instant adversary proceeding was filed July 13th, 2004 and a pre-trial hearing scheduled for November 12th, 2004.
2. That plaintiffs interrogatories pursuant to FRCP 33 were sent to defendant

on September 14th, 2004. (Adv. Proc. Docket #8.)

3. That on October 4th, 2004 defendant requested and was granted a forty-five day enlargement to answer said interrogatories. (Adv. Proc. Docket #9.)
4. That as of the date of the pre-trial hearing scheduled for November 12th, 2004 defendant had still not answered plaintiff's interrogatories and requested in open court and was granted conversion of said hearing to a status conference.
5. At said hearing this Court granted parties up to January 31st, 2005 to conclude discovery and a second pre-trial hearing was scheduled for March 8th, 2005. (Adv. Proc. Docket #10.)
6. That on February 17th, 2005 plaintiff filed a request for sanctions against defendant as it still had not answered plaintiff's interrogatories sent on September 14th, 2004 and had therefore not complied with this Court's order. (Adv. Proc. Docket #12.)
7. That at the second pre-trial hearing on March 8th, 2005 this Court took no action concerning plaintiff's request for sanctions; instead it accepted in open court defendant's request for summary judgement, ordered plaintiffs to answer the same within twenty days and again converted the hearing to a status conference, again at the request of defendants. (Adv. Proc. Docket #'s 15 and 16.)
8. That plaintiffs answered defendant's summary judgement request and filed the same on April 4th, 2005. This court has still not disposed of the summary judgment issues.
9. That a third pre-trial hearing was scheduled for August 2nd, 2005.
10. That prior to said hearing plaintiff prepared its pre-trial report and sent it to defendant so that it could attach its part.
11. That inasmuch as defendant did nothing, plaintiff filed its portion of the pre-trial report on July 31st, 2005.
12. That at the hearing scheduled for the third pre-trial hearing this Court stated that it would take under advisement parties' motions for summary

judgement.

13. That a year and a half after the filing of the instant adversary proceeding there has yet to be a pre-trial hearing and no action in the case has been taken since August 2005.
14. That the unwarranted delay is prejudicial to plaintiffs inasmuch as their witnesses may in time move away or disappear.
15. That request is made that this Court dispose of the summary judgement motions and continue the proceedings in the name of justice.
16. That should plaintiff persevere in its answer to defendant's request for summary judgement, then the only matter pending would be the matter of damages requested by plaintiffs due to defendant's violation of bankruptcy law.

WHEREFORE, it is respectfully requested that this Honorable Court dispose of the summary judgement motions filed by parties in the instant proceeding.

I HEREBY CERTIFY that a copy of this writ has been sent via electronic mail to attorney for defendant General Electric Capital Corporation of Puerto Rico, Wilfredo Segarra Miranda, Esq., segarralaw@prtc.net and to standing Chapter 13 Trustee, José Carrión, Esq. ecfmail@ch13-pr.com.

In Bayamón, Puerto Rico, this 14th day of December, 2005.

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